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PTO/SB/21 (6-99)

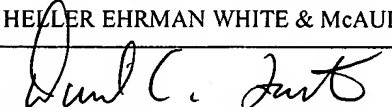
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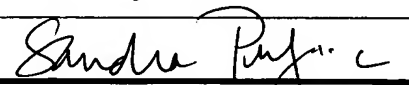
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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 <b>TRANSMITTAL FORM</b> (Use for all correspondence after initial filing)	<b>Application Number</b>	10/773,951	
	<b>Filing Date</b>	February 6, 2004	
	<b>First Named Inventor</b>	David Agus, et al.	
	<b>Group/Art Unit</b>	1645	
	<b>Examiner Name</b>	Unassigned	
<b>Total Number of Pages in This Submission</b>	-----	<b>Attorney Docket Number</b>	39740-0009A

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Version with Markings Showing Changes <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input checked="" type="checkbox"/> Information Disclosure Statement and PTO-1449 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): 25 references submitted and a stamped return postcard.
<b>Remarks</b> AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER.		

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT			
Firm or Individual name	David C. Foster, Reg. No. 44,685 HELLER EHRMAN WHITE & McAULIFFE LLP		
Signature			
Date	May 16, 2005	Customer Number:	25213

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service via First Class Mail on the date indicated below and addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450			
Typed or printed name	Sandra Puljic		
Signature		Date	May 16, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Unassigned
	)	
David Agus et al.	)	Art Unit: 1645
	)	
Application Serial No. 10/773,951	)	Attorney's Docket No. 39740-0009A
	)	
Filed: February 6, 2004	)	<b>Customer No. 25213</b>
	)	
For: <b>GENE EXPRESSION MARKERS</b>	)	
<b>FOR RESPONSE TO EGFR</b>	)	
<b>INHIBITOR DRUGS</b>	)	

DATE MAILED: MAY 16, 2005

**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 C.F.R. §1.97**

**MAIL STOP AMENDMENT**

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy of each listed publication except U.S. patents and patent application publications (1276 OG 55), is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. Form Supplemental PTO-1449 is enclosed and the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.

☒ This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):

- ☐ (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)  
-- OR --
- ☐ (2) It is being filed within 3 months of entry of a national stage  
-- OR --
- ☒ (3) It is being filed before the mail date of the first Office Action on the merits  
-- OR --
- ☐ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.

- ☐ 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:
- ☐ a certification as specified in §1.97(e) is provided below; **or**
- ☐ a fee of **\$180.00** as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☐ 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:
- A. a certification as specified in §1.97(e) is completed below; and
- B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; **and**
- C. a fee of \$130.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ **Fee Authorization.** The Commissioner is hereby authorized to charge the above-referenced fees of **\$0.00** and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. **08-1641 (Attorney's Docket No. 39740-0009A)**.

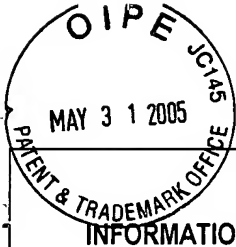
Respectfully submitted,

Dated: May 16, 2005

By: 

David C. Foster (Reg. No. 44,685)

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SV 2125104 v1



Form PTO-1449

Attorney's Docket No.  
39740-0009AApplication Serial No.  
10/773,951

## INFORMATION DISCLOSURE STATEMENT

Applicant(s)

David AGUS, et al.

(use several sheets if necessary)

Filing Date:  
February 6, 2004Group Art Unit:  
1645

## U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date (if appropriate)

## FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Translation	
							YES	NO
	1.	12/27/2002	WO 02/103320 ✓	Dai et al.	G01N			
	2.	06/07/2001	WO 01/40466	Baker et al.	C12N	15/12		
	3.	08/01/2002	WO 02/059377	Mack et al.	C12Q	1/68		
	4.	07/18/2002	WO 02/055988	Gish et al.	G01N			
	5.	09/27/2001	WO 01/70979	Lee et al.	C12N	15/12		
	6.	10/09/2003	WO 03/083096	Delaney et al.	C12N	9/12		
	7.	06/13/2002	WO 02/46467	Bertucci et al.	C12Q	1/68		
	8.	09/06/2002	WO 02/068579	Venter et al.	C12G			
	9.	01/21/1999	WO 99/02714	Billing-Medel et al.	C12/N	15/63		
	10.	09/21/2000	WO 00/55173	Rosen et al.	C07H	21/04		
	11.	08/31/2000	WO 00/50595	Gout et al.	C12N	15/12		
	12.	01/03/2002	WO 02/00677 ✓	Birse et al.	C07H	21/02		
	13.	01/31/2002	WO 02/08261	Botstein et al.	C07K	14/00		
	14.	01/31/2002	WO 02/08260	Botstein et al.	C12/N	15/52		
	15.	01/31/2002	WO 02/08282	Botstein et al.	C07K	14/47		
	16.	01/31/2002	WO 02/08765	Botstein et al.	G01N	33/574		
	17.	08/02/2001	WO 01/55320	Rosen et al.	C12N			

## OTHER DOCUMENTS

(including author, title, date, pertinent pages, etc.)

Examiner Initials	Ref. No.	Title
	18.	Bhattacharjee et al., "Classification of human lung carcinomas by mRNA expression profiling reveals distinct adenocarcinoma subclasses", Proceedings of the National Academy of Sciences of USA, Vol. 98, No. 24, pp. 13790-13795, November 20, 2001.
	19.	Golub et al., "Molecular Classification of Cancer: Class Discovery and Class Prediction by Gene Expression Monitoring", Science, Vol. 286, pp. 531-537, October 15, 1999.
	20.	Martin et al., "Linking Gene Expression Patterns to Therapeutic Groups in Breast Cancer", Cancer Research, Vol. 60, pp. 2232-2238, April 15, 2000.
	21.	Ramaswamy et al., "Multiclass cancer diagnosis using tumor gene expression signatures", Proceedings of the National Academy of Sciences of USA, Vol. 98, No. 26, pp. 15149-15154, December 18, 2001.
	22.	Sorlie et al., "Gene Expression patterns of breast carcinomas distinguish tumor subclass with clinical implications", Proceedings of the National Academy of Sciences of USA, Vol. 98, No. 19, pp. 10869-10874, September 11, 2001.
	23.	West et al., "Predicting the clinical status of human breast cancer by using gene expression profiles", Proceedings of the National Academy of Sciences of USA, Vol. 98, No. 20, pp. 11462-11467, September 25, 2001.

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

\*If an asterisk is placed beside the reference number, a copy is not provided because the reference was previously cited by or submitted to the PTO in a prior application that is identical in the statement and relied upon for an earlier filing date under 35 U.S.C. §120. 37 C.F.R. §1.98 (d).

Form PTO-1449		Attorney's Docket No. 39740-0009A	Application Serial No. 10/773,951
INFORMATION DISCLOSURE STATEMENT		Applicant(s) David AGUS, et al.	
(use several sheets if necessary)		Filing Date: February 6, 2004	Group Art Unit: 1645
24.	Yan <i>et al.</i> , "Dissecting Complex Epigenetic Alterations in Breast Cancer Using CpG Island Microarrays", Cancer Research, Vol. 61, pp. 8375-7380, December 1, 2001.		
25.	Yeang <i>et al.</i> , "Molecular Classification of Multiple Tumor Types", Bioinformatics, Vol. 17, Suppl. 1, pp. S316-S322 (2001)		

EXAMINER:	DATE CONSIDERED:
EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.	
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